



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

February 10, 2009

TO: J. Thomas Manger, Police Chief

FROM: Isiah Leggett, County Executive

SUBJECT: Criminal Justice Policy Changes

One of the most important responsibilities that I have as County Executive is to ensure the safety of our community. I appreciate your outstanding leadership and the exceptional work of the Montgomery County Police Department in helping us to achieve this objective.

I have evaluated your recommendation for a change in our current policy regarding the manner in which we handle violent offenders in the county, some of whom may be undocumented residents. I have also received valuable input from State's Attorney John McCarthy, County Attorney Leon Rodriguez, Correction & Rehabilitation Director Arthur Wallenstein and many others throughout the criminal justice system – on the local, state, and federal levels. In addition, I received considerable feedback and information from a broad range of County residents and organizations reflecting a variety of perspectives on this important recommendation.

After careful consideration, I have concluded that the following should reflect our new approach on this matter. The names of all persons arrested and charged in Montgomery County for crimes of violence, as defined in the Maryland Criminal Law Code Section 14-101, or for wearing, carrying or transporting a handgun (Maryland Criminal Law Code Section 4-203) will be forwarded to the Federal Immigration and Customs Enforcement (ICE). As has been our practice, Montgomery County police will not conduct immigration status investigations.

Montgomery County police's role under these circumstances is to simply notify ICE of arrestees charged with violent crimes and the specific handgun violation in our custody and allow ICE to perform their duty from that point forward. Our police will not differentiate among the violent offenders falling into this new policy when charged. They would report the names of all those arrested and charged for these offenses to ICE. My understanding is that this new procedure would forward, on average, about three names per day.

Among the violent offenses included under this policy are murder, rape, carjacking, and defined classes of assaults, sexual offenses, arson, and robbery. The handgun provision would broadly cover those persons in illegal possession of a handgun. The list of offenses covered is attached.

This new policy can assist the county in helping to keep violent offenders off the streets. We can accomplish this without our officers becoming federal immigration police or crossing the line into "profiling" individuals based on their race or ethnicity. I strongly believe that local jurisdictions such as Montgomery County should not substitute their law enforcement efforts for what can only be described as a failure of the federal government to achieve a workable immigration policy.

As you know, currently, if a person is arrested or questioned by county police officers, the individual's name is checked with the National Crime Information Center for any warrant. If there is an outstanding warrant, we detain that person and notify the appropriate law enforcement agency, including ICE. The changes we are adopting in this new procedure will not alter our current policy of checking for outstanding warrants through the National Crime Information Center.

I recognize that some in our community may think that the approach outlined in this response to you goes too far; others may conclude that it does not go far enough. I believe this approach is balanced and realistic for our highly diverse community of nearly one million residents.

Let me share with you what influenced my decision on this matter. First and foremost it is a priority of this administration that our police department facilitates safe and sustainable communities where every resident is encouraged to interact positively with the police. The men and women of our police department have made great strides in earning the trust of the community and we need to ensure that they continue to operate in such a manner that maintains that trust and confidence of all of our residents.

I have heard from those who have so thoughtfully and passionately advocated that we totally remove our county's law enforcement from issues involving immigration. I do not believe it is a good use of our county police resources to enforce federal immigration law. I remain opposed to the 287(g) training for our police.

Frankly, no one wants violent criminals preying on the community, including the residents of our neighborhoods most heavily populated by immigrants.

I have heard as well from those who feel that this change does not go far enough. I carefully considered even stricter options that were recommended to me from a variety of parties who believe a broader number of crimes should be included in the list of offenses. In addition, others have asked me to consider more questionable policies and legal procedures to reduce violent criminal activity in the county. However, I have concluded that this new approach is a balanced and useful tool that could help us keep some of the more dangerous criminals out of our neighborhoods. I do not believe it is reasonable or would be effective for our county to go further by adopting some of the more restrictive measures found in other communities.

In addition, I also support an effort led by Montgomery County State's Attorney John McCarthy to amend the criteria used by the State Department of Juvenile Justice in making detention decisions on juvenile offenders committing serious crimes.

We have seen, over and over, 16 and 17-year olds who are committing serious felonies being released back into the community while awaiting trial, only to engage in continued criminal activity. Other communities have been able to amend the State's criteria to keep the worst juvenile offenders detained while awaiting trial, and we need to do the same. John McCarthy has also led the way, meeting with State officials to craft a policy that balances the welfare of these young offenders with the safety of the community. I am currently working through our Criminal Justice Coordinating Commission to amend what is called the Risk-Assessment Instrument (RAI), used by the State Department of Juvenile Services (DJS). It is our intention to have an RAI in place that mirrors what Baltimore County is using. This change will help remove some of the most dangerous juvenile offenders from our community.

There is no doubt that the immigration issue is a thorny one on many fronts. The immigration system is broken, and we need common-sense solutions from Congress that are fair and realistic. Until that happens, communities such as Montgomery County find themselves in a difficult situation on a range of issues.

Based on all of the aforementioned factors, I believe adoption of the new procedure you recommended for crimes of violence and illegal handgun possession is warranted.

It is my responsibility to keep our diverse communities as safe as they can be for *all* of our residents. These changes, taken together, will help us advance that goal.